

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RUDY SIMENTAL,
Plaintiff,
v.
NANCY ADAMS, et al.,
Defendants.

Case No. [17-cv-00801-SI](#)

**ORDER REFERRING CASE TO PRO
SE PRISONER SETTLEMENT
PROGRAM**

Re: Dkt. Nos. 29, 31

This case was set for a settlement conference on November 9, 2017, before Magistrate Judge Kellison in the Eastern District of California, who intended to make use of students from the University of the Pacific McGeorge School of Law Prison Civil Rights Mediation Program in conducting the settlement conference. The settlement conference did not go forward that day because transportation problems arose (i.e., a wheelchair accessible van was not available to take plaintiff to the courthouse) and plaintiff thereafter refused to participate by videoconference or telephone.

Thereafter, the parties again expressed interest in having a settlement conference. Plaintiff's motion to reschedule a settlement conference is GRANTED. Docket No. 29. However, the settlement conference will take place in the Northern District of California because the case no longer fits with the schedule for the McGeorge School of Law Prison Civil Rights Mediation Program.

Good cause appearing therefor, this case is now referred to Magistrate Judge Robert Illman for settlement proceedings pursuant to the *Pro Se* Prisoner Mediation Program. (Although the program is called a mediation program, Magistrate Judge Illman also may conduct settlement conferences in his efforts to resolve cases referred through this program.) The proceedings will

1 take place within **one hundred twenty days** of the date this order is filed. Magistrate Judge
2 Illman will coordinate a time and date for a settlement proceeding with all interested parties and/or
3 their representatives and, within five days after the conclusion of the settlement proceedings, file
4 with the court a report for the proceedings.

5 The court was dismayed to learn that plaintiff declined to speak with Magistrate Judge
6 Kellison by telephone and/or videoconference after the transportation problem arose on the day of
7 the earlier scheduled settlement conference. A fair amount of judicial resources are consumed
8 preparing for settlement conferences and are wasted when a scheduled conference does not
9 proceed. To avoid that happening again, plaintiff is now specifically ordered to attend and
10 participate in the settlement conference proceedings. He does not have to reach a settlement or
11 other resolution of his claims, but he absolutely must attend and participate in all the settlement
12 conference proceedings. The conference may be set up so that he will appear in person, by
13 videoconference or by telephone -- and he must attend whatever format Magistrate Judge Illman
14 chooses. Plaintiff is cautioned that he may be sanctioned for failure to comply with an order to
15 participate in a settlement conference, and such sanctions may include dismissal of part or all of
16 the action. *See* Fed. R. Civ. P. 16(a), (f), and 41(b).

17 Defendants' motion to file a long brief and to extend the deadline to file a summary
18 judgment motion is GRANTED. Docket No. 31. The court now VACATES the briefing schedule
19 for the motion for summary judgment. If the parties are unable to resolve this action during
20 settlement proceedings, the court will later set a new briefing schedule.

21 **IT IS SO ORDERED.**

22 Dated: December 4, 2017



SUSAN ILLSTON
United States District Judge